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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,619	12/24/2003	Aaron Golle	1748006US1	1478

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402-0938

EXAMINER	
HAN, JASON	

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/707,619	GOLLE ET AL.
	Examiner	Art Unit
	Jason M. Han	2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 December 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20050719*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable

petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

It does not have the signatures of each inventor.

Drawings

3. The drawings are objected to because there are duplicate copies of Figures 12-13 and Figure 15 has incomplete reference numerals on the far left. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:

a. Page 4, Paragraph 29, Line 1: Misspelling – "electro luminescent" should read as "electroluminescent";

b. Page 6, Paragraph 32, Line 3: Typographical error – "surface 210" should read as "surface 310";

c. Page 8, Paragraph 37, Line 5: Typographical error – "safety sing" should read as "safety sign";

d. Page 10, Paragraph 43, Line 4: Typographical error – "on the real" should read as "on the rear";

e. Page 10, Paragraph 46, Line 4: Grammatical error – delete comma;

Numerous typographical/grammatical errors are replete throughout the application. The examiner has forgone any correction due to the amount, and the specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Appropriate correction is required.

Claim Objections

5. Claims 13-21, and 23-26 that depend on Claim 20, are objected to because of the following informalities: Claims 13-21 and 23-26 are method claims, which cannot

depend on the apparatus of Claim 1. The examiner has assumed that Claims 13-21, as well as Claims 23-26 are dependent on Claim 12 in the rejection below. Appropriate correction is required.

6. Claims 13-18 are objected to because of the following informalities: The limitation, "the safety indicia", lack antecedent basis, and the examiner has rendered the best-deemed interpretation in the rejection below. Appropriate correction is required.

7. Claim 16 is objected to because of the following informalities: Grammatical error – "rear view" should be one word. Appropriate correction is required.

8. Claim 23 is objected to because of the following informalities: The limitation, "the safety signal", lacks antecedent basis, and the examiner has rendered the best-deemed interpretation in the rejection below. Appropriate correction is required.

Claim Rejections - 35 USC § 101 & 35 USC § 112

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 18-19 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific or substantial asserted utility or a well established utility.

With regards to Claim 18, Applicant recites, "the snowplow is driven adjacent to another snowplow that also includes the safety indicia illuminated by one or more EL lighting surfaces", where no further utility is established over Independent Claim 12, which recites a method of improving driver safety in a snowplow via safety indicia illuminated by one or more EL lighting surfaces.

With regards to Claim 19, Applicant recites, "the snowplows are driven in a snowstorm", which lacks antecedent basis with respect to a plurality of snowplows, but more importantly fails to establish further utility over Independent Claim 12, which recites a method for improving driver safety in conditions that include darkness, storms, fog, and other conditions of adverse visibility. It is also apparent that a snowplow would be used in a snowstorm.

Claims 18-19 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific or substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

The following claims have been rejected in light of the specification, but rendered the broadest interpretation as construed by the examiner [MPEP 2111].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (U.S. Patent 5339550) in view of Pratt (U.S. Patent 6409367).

11. With regards to Claim 1, Hoffman discloses an EL light device [Figure 1], and teaches, "While the discussion of the invention has emphasized its use in connection with **motor vehicles, specifically automobiles, signs according to the invention could also be mounted on trucks, boats, and the like**, or on articles of clothing or the like, where not otherwise limited [Column 6, Lines 3-7]."

Hoffman does not specifically teach the truck or large motor vehicle being a snowplow including a cab, trailer, and scraper, whereby the EL lighting device is attached to one or more doors on the cab.

Pratt teaches a warning light for a vehicle, whereby the vehicle is a snowplow including a cab, trailer, and scraper [Figure 1 – note drawing below].

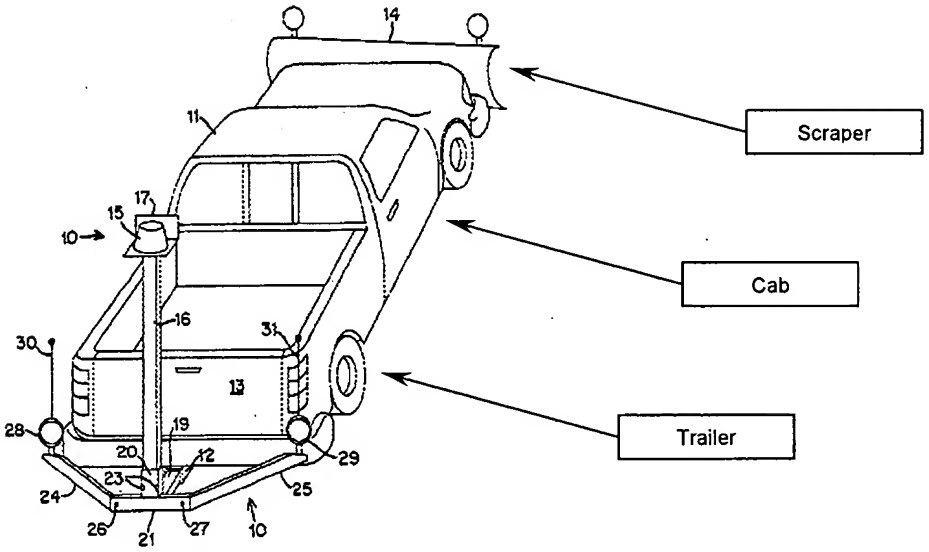

FIG 1

It would have been obvious to one ordinarily skilled in the art at the time of invention to incorporate the EL lighting device of Hoffman onto the cab of a snowplow of Pratt, in order to convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident. It should be noted that it is commonly known and obvious within the art to use signs on large vehicles to increase awareness of drivers and avoid accidents.

12. With regard to Claims 2-4, Hoffman in view of Pratt discloses the claimed invention as cited above, but does not specifically teach the EL lighting device being attached to one or more doors of the cab (re: Claim 2), onto a front portion of the cab (re: Claim 3), nor onto an upper portion of the cab (re: Claim 4).

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only

routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto one or more doors, a front portion, and/or an upper portion of the cab may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

13. With regard to Claims 5-6, Hoffman in view of Pratt discloses the claimed invention as cited above, but does not specifically teach one or more mud flaps attached to one or more of the cab and trailer (re: Claim 5), whereby the EL lighting device is on one or more mud flaps.

However, it is commonly known within the art that trucks, and even cars, may be equipped with mud flaps on the cab and trailer. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto one or more mud flaps may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

14. With regards to Claim 7, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Pratt teaches, "In most instances, the beacon light is a flashing or strobe light designed to draw attention of nearby observers to the existence of the plow vehicle [Column 1, Lines 36-39]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the EL lighting device of Hoffman to emit a blinking display, as taught by Pratt, so as to ostentatiously enhance the visibility and draw attention to nearby observers.

15. With regards to Claim 8, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device including indicia [Figure 1: (18, 20)].

16. With regards to Claim 9, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Hoffman teaches the indicia imparting a message conveying safety or caution [Figures 1, 5, 6: (18, 20)]. With respect to showing a pattern selected to convey a visual safety message, it should be noted that signs are intended to convey messages, whereby a **safety** sign does not attain any unique, unobvious, or patentable status.

17. With regards to Claim 10, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device including more than one color [Column 2, Lines 64-68].

18. With regards to Claim 11, Hoffman in view of Pratt discloses the claimed invention as cited above, but does not specifically teach the EL lighting color being orange or yellow. However, it would have been obvious to one ordinarily skilled in the art at the time of invention that one could implement the EL device to emit an orange or yellow color, which is commonly known within the art, and is considered a matter of

design choice. Pratt corroborates, "They may be fabricated of an easy-to-see color, such as fluorescent orange [Column 5, Lines 60-62]."

19. Claims 12-21 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (U.S. Patent 5339550) in view of Pratt (U.S. Patent 6409367).

20. Since Claim 12 is a method claim sufficiently reciting the structural limitations of Claim 1, Hoffman in view of Pratt is an obvious teaching over the scope of the present claim. It has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could construct a method claim for said apparatus. In addition, Pratt teaches, "The warning light or beacon is typically deployed at or near the highest area of the vehicle and is most effective at night and/or during stormy weather conditions [Column 1, Lines 34-37]."

21. With regards to Claim 13, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device including safety indicia [Figure 1: (18, 20)], but does not specifically teach one or more mud flaps attached to the snowplow where the EL lighting device is on.

However, it is commonly known within the art that trucks, and even cars, may be equipped with mud flaps on the cab and trailer. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86

USPQ 70. In this case, providing the EL device onto one or more mud flaps may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

22. With regard to Claims 14-17, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device including safety indicia [Figure 1: (18, 20)], but does not specifically teach the safety indicia including a surface on a cab of the snowplow (re: Claim 14), onto the rear of the snowplow (re: Claim 15), onto one or more rearview mirrors of the snowplow (re: Claim 16), nor onto the top of the snowplow (re: Claim 17).

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the safety indicia with EL lighting surface(s) onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto a surface of the cab, a rear of the snowplow, onto one ore more rearview mirrors, and/or onto the top of the snowplow may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

23. With regards to Claim 18, Hoffman in view of Pratt discloses the claimed invention as cited above, but does not specifically teach the snowplow being driven

adjacent another snowplow that includes safety indicia illuminated by one or more EL lighting surfaces.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the safety indicia with EL lighting surface(s) on another snowplow, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case, it is obvious that implementing the EL lighting device on a plurality of snowplows would increase awareness and safety during a snowstorm.

24. With regards to Claim 19, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, it is considered obvious that one would use a snowplow during a snowstorm. Pratt corroborates, "The warning light or beacon is typically deployed at or near the highest area of the vehicle and is most effective at night and/or during stormy weather conditions [Column 1, Lines 34-37]."

25. With regard to Claims 20-21, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Pratt teaches, "In most instances, the beacon light is a flashing or strobe light designed to draw attention of nearby observers to the existence of the plow vehicle [Column 1, Lines 36-39]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the EL lighting device of Hoffman to emit a blinking display, as taught by Pratt, so as to ostentatiously enhance the visibility and draw attention to nearby observers.

26. With regards to Claim 23, Hoffman in view of Pratt discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device/safety signal including more than one color [Column 2, Lines 64-68].

27. With regard to Claims 24-26, Hoffman in view of Pratt discloses the claimed invention as cited above, but does not specifically teach the EL lighting device being attached to the front of the snowplow (re: Claim 24), the rear of the snowplow (re: Claim 25), and/or at least one mud guard attached to the snowplow (re: Claim 26).

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto the front of the snowplow, the rear of the snowplow, and/or onto at least one mudguard (which are commonly known) attached to the snowplow may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

28. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (U.S. Patent 5339550) in view of Pratt (U.S. Patent 6409367).

Since Claim 12 is a method claim sufficiently reciting the structural limitations of Claim 1, Hoffman in view of Pratt is an obvious teaching over the scope of the present claim. It has been held an obvious matter that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill in the art could

construct a method claim for said apparatus. In addition, Pratt teaches, "The warning light or beacon is typically deployed at or near the highest area of the vehicle and is most effective at night and/or during stormy weather conditions [Column 1, Lines 34-37]."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art pertinent to the current application, but are not considered exhaustive:

US Patent 5005306 to Kinstler;

US Patent 5444930 to Loew;

US Patent 6371633 to Davis;

US Patent 6840098 to Halliday.

US Patent 5437113 to Jones;

US Patent 5533289 to Hoffman;

US Patent 6446879 to Kime;

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (9/15/2005)

Stephen Husar
Primary Examiner